THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.15618 of 1998
Date: 16-07-2007

Between:
Shaik Beebi Petitioner

And

The Andhra Pradesh State Road Transport Corporation,
rep. by it's Managing Director/Ex.Officio Chairman,
APSRTC Staff Benevolent-cum-Thrift Fund,
Musherrabad, Hyderabad and others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.15618 of 1998

ORDER:

1. The husband of the writ petitioner was appointed as a Driver in the Andhra Pradesh State Road Transport Corporation (for short the "APSRTC") in terms of a scheme formulated by it for absorbing some of the displaced employees working with the private bus operators whose routes have been nationalized.

2. The husband of the writ petitioner was continuously working with the APSRTC till 21-01-1993 when he died all of a sudden. In response to widespread desire among the employees of the Corporation for putting in place a comprehensive social security scheme, the APSRTC passed Resolution No.52 of 1980 dated 27-02-1980 constituting the APSRTC Staff Benevolent-cum-Thrift Fund (in brevity referred to as "fund") to secure the welfare of it's employees .

3. The declared objects of the fund are:

i) to promote co-operation and thrift among Employees-Members of the Corporation;

ii) to provide social security and charity to the families of the deceased Employee-Members of the Corporation;

iii) to provide support to the physically and permanently disabled Employee-Members of the Corporation.

4. For administering the fund efficiently, it was got registered as a society under the A.P. (Telangana Area) Public Societies Registration Act, 1350 Fasli. The society, started functioning through the Managing Committee which

declared the effective date for implementation of the funds to be 1st February,1980. The bye-laws framed are rendered applicable to the following categories of employees: (a) The employees of the Corporation who are on rolls as on 31-01-1980 and who opt to become Members of the Fund; (b) All Employees of the Corporation who are/may be appointed on or after 01-02-1980; (c) The Employees of the Corporation who are on deputation and who have opted to the fund.

5. It has been made clear that the benefits of the fund will not be rendered applicable to (a) Casual Employees on daily wages; (b) Workcharged Employees, who are on daily wages (or time scale) or consolidated wages; (c) Employees on contract basis; (d) Former Tirumala Tirupati Devasthanam Employees who are transferred to the Corporation but who did not opt to APSRTC service conditions.

6. It is therefore manifestly clear that the fund is intended to create a social security cover for all such employees who get into employment on or after 01-02-1980 as well, apart from providing the cover for all the existing employees who opted to become members of the fund. Various expressions which are found a mention of in the bye-laws have all been defined in bye-law 5. The expression "member" has been defined in bye-law 5 (h) in the following manner:

> *Member: means and includes an Employee of the Corporation who opted to the Fund/an Employee who is appointed on and after 01-02-1980, and who is admitted as a Member of the fund.*

7. Similarly the expression "Subscription" had been defined in bye-law 5 (k) as under:

> *Subscription: means monthly contribution payable by the Member.*

8. The term "Ex-gratia" has been defined in bye-law 5 (o) and the term "Ex-gratia fund" has been defined in bye-law 5 (n) in the following manner:

Ex-Gratia: means the amount declared by the Committee and payable from the Ex-gratia Fund to the nominee or to the legal heir of the Member, who died while in service (and to the Members who sustained injuries resulting in permanent disablement of functional units).

Ex-gratia Fund: means the Fund set apart out of the " Interest Liability" to meet the payment of Ex-gratia in cases of death of Member (and permanent disablement of functional units).

9. The prudent manner in which the funds have got to be managed has been detailed in bye-law 11 as under:

"Management of funds:

(i) All monies received towards Subscription from Members, return on investments and such other receipts shall be deposited in current account or in such short term deposits in Scheduled Bank as may be decided by the Managing Committee from time to time.

(ii) The Funds of the SBT Fund shall be invested in the following manner in the order of preference.

(a) Andhra Pradesh State Road Transport Corporation;

(b) Andhra Pradesh Co-operative Credit Society Limited;

(c) Scheduled Bank;

(d) Any other manner considered fit by the Managing Committee, provided the investment is fully secured.

(iii) It shall however be the endeavour of the Managing Committee to ensure maximum rate of return on the investments.

(iv) The interest earned on the Subscriptions made by the Members and other revenues shall be apportioned between "Interest Liability" and provision for "Administration and Office Expenses" in such ratio as may be decided by the Managing Committee from time to time."

10. It has now been entrusted to the Managing Committee, in terms of bye-law 13, to ensure that the corpus of the fund, the interest liability and the ex-gratia fund shall be utilized for the purposes for which it is created. Bye-law 15 makes it incumbent for each member to pay an enrollment fee of Re.1/- at the time of joining as a member and enrollment to the fund. The enrollment fee was rendered liable to be recovered from the salary of the employees. Similarly, bye-law 16 prescribes that every member shall pay the subscription which shall be

recovered during the period of his service from his salary every month at the rates indicated therein. Initially the subscription rate was Rs.10/- in case of members in Class-III and IV services and Rs.20/- in case of members in Class-II services. These rates of monthly subscription stood revised with effect from 01-04-1983 as Rs.20/- for members in Class-III and IV and Rs.40/- for members in Class-II. This apart, an option has been left for the employees to contribute a sum of Rs.30/- being the lower slab and Rs.50/- being the higher slab with effect from 01-04-1993. Thereafter, all the members were required to contribute at the same rate. The repayment of the accumulations in the fund has been dealt with in bye-law 17, while payment of ex-gratia has been dealt with in bye-law 18. Since the controversy kicked up in the writ petition centers around the obligation for payment of ex-gratia, it will be useful to extract bye-law 18 which reads as under:

> *"Payment of Ex-gratia:*
> *In the event of death of a Member, an Ex-gratia of Rs.20,000.00 (Rupees Twenty thousand only) in case of Employee-Members in Class-1 (Special Scale, Sr. Scale, Jr.Scale) services; or Rs.10,000.00 (Rupees Ten thousand only) in case of Class-III & IV service as the case may be or at the rate as may be decided by the Managing Committee from time to time shall be paid to the nominee or nominees of the deceased, in case there is no dispute, or in the absence of nominee or nominees, to the legal heir declared by a competent Civil Court.*
>
> *(i) The Ex-gratia payable in case of death of a Member is Rs.40,000.00 in case of Employee-Members in Class-1 service; Rs.20,000.00 in case of Employee-Members in Class-II, Class III & IV services:*
>
> *(ii) The Ex-gratia payable in cases of death have been enhanced with effect from April 1, 1990*
>
> *(1) Higher Slab - Rs.55,000.00- In case of those who are subscribing at higher slab rate of Rs.50.00 p.m.*
>
> *(2) Lower Slab – Rs.35,000.00- In case of those who are subscribing at lower slab rate of Rs.30.00 P.M.*
>
> *(3) The rates of ex-gratia in two slabs are merged into single and uniform rate of Rs.55,000.00 with effect from April 1,1993.*
>
> *(4) The rate of Ex-gratia was enhanced to Rs.65,000.00 with effect from May 01,1994.*

(iii) The Additional Ex-gratia of Rs.15,000.00 shall be paid towards risk in accidental eventualities such as accident, burning, dog-bits, drowning, electrocution, firing, murder, snake-bite, resulting in death of a Member in all Classes of services, apart from the ex-gratia mentioned under sub-clause (i) above.

(iv) An Ex-gratia of Rs.15,000.00 shall be paid to the Member towards risk in case of permanent disability of functional units namely-loss of two limbs either lower or upper (i.e.) two legs or two hands or both eyes.

(v) An Ex-gratia of Rs.7,500.00 shall be paid to the Member towards risk in case of permanent disability of a functional unit, namely-loss of one eye, or one foot, or one hand.

(vi) Retirement Ex-gratia: An amount of Rs.200.00 for each completed year of Membership to those who retire from service."

11. Bye-law 21 has left adequate power in the hands of the Corporation to give directions for proper functioning of the fund. Thus there was adequate control over the administration of this fund retained with the Corporation itself.

12. It is not in dispute that from the time the husband of the writ petitioner joined the services of the APSRTC as a Driver the necessary deductions towards the enrollment fee and monthly subscriptions to the fund are effected from the salary and allowances payable to him , till such time he died in January,1993. Thus for nearly 5 ½ years there were deductions made on month to month basis and the same were remitted for the fund, but however, subsequent to the death of the husband of the writ petitioner, when the writ petitioner staked a claim for payment of ex-gratia amount in terms of bye-law 18, it has been scrutinized by the respondents and they found that the date of birth of the husband of the writ petitioner happened to be 27-06-1937 and hence he has completed the age of 50 years by 27-07-1987, the date on which he came to be absorbed into the services of the APSRTC pursuant to the nationalization of the private bus routes upon which he was earlier working as a Driver. Therefore, based upon the Standing Order SBT/ 1987

dated 19-10-1987 the claim of the writ petitioner has been denied for payment of ex-gratia.

13. It is the case of the respondents that the Managing Committee had reconsidered the eligibility norms of the fund and consequently realized that some of the displaced employees who are getting recruited by way of absorption into the service of the Corporation are beyond 45 years of age, which is the maximum permissible age for direct recruitment in the Corporation and hence have evolved the following procedure to regulate their admission to the fund:

> *"(b) In case of displaced employees:*
>
> *(i) such of those displaced employees who are already appointed till now (i.e.) who are over 45 years, but below 50 years as on the date of appointment shall subscribe Rs.500-00 (Rupees Five hundred only) recoverable through salary in three monthly instalments.*
>
> *(ii) Such of those displaced employees who are over 45 years, but below 50 years and who may be appointed shall subscribe the amount of Rs.500-00 (Rupees Five hundred only) and produce the money receipt, before appointment and taken on duty."*

Since the case of the husband of the writ petitioner falls within the Standing Order dated 19-10-1987 of the Managing Committee, the writ petitioner is not entitled to stake a claim for payment of ex-gratia, is the stand of the respondents.

14. I have heard Sri G.Vidyasagar, the learned counsel for the writ petitioner and Sri R.Manmadha Reddy, the learned standing counsel for the APSRTC.

15. The undisputed facts in this case are that after the husband of the writ petitioner came to be recruited to the services of the APSRTC he had not only been enrolled to be a member of the fund but his monthly subscriptions have also been deducted from the salary and allowances payable to him on month to month basis. These stipulations and actions have been taken in consonance

with the bye-laws of the fund. But however, what the learned standing counsel would contend is that the agency which is responsible for admitting the husband of the writ petitioner to be a member of the fund and also consequently deducting the monthly subscriptions from his salary have erroneously failed to notice the instructions contained in Standing Order dated 19-10-1987. It will be appropriate to point out right at this stage that the bye-law-20 of the bye-laws contemplates the procedure for securing amendments. Most importantly, for the present case, it has been clearly indicated that the amendment or alteration of the bye-laws so effected shall come into force after the same is approved by the Corporation. Thus no amendment of the bye-laws can be brought into force with retrospective effect. The obvious inference therefore which should be drawn from the Standing Order dated 19-10-1987 is that the amendment brought about to the membership of the fund shall take effect on and from 19-10-1987 and it shall not have any regulation over the affairs of the membership of the fund prior to October,1987. When we examine the factual situation in respect of the husband of the writ petitioner, who had become a member of the fund and his monthly contributions have been so deducted from out of his salary and allowances payable for the months of August,1987 and September,1987, it becomes crystal clear that the case of the husband of the writ petitioner does not get covered by the Standing Order dated 19-10-1987, it being subsequent to his admission as a member to the fund. I therefore, have no hesitation to hold that the husband of the writ petitioner had been admitted to be a member of the fund not due to any error but in perfect compliance with reference to the bye-laws of the fund as they stood at that time. Therefore, the action of the pay disbursing officers of the Corporation who have carried out the deductions of monthly subscriptions to the fund regularly, till January,1993 , when the husband of the writ petitioner died, is

perfectly legitimate and a valid exercise and it is not erroneous.

16. The theory that the husband of the writ petitioner has crossed 50 years of age at the time of his absorption in to the services of the Corporation on 27-07-1987 and consequently is not even eligible to become a member of the fund, is totally meritless. Prior to introduction of the modified scheme through the Standing Order dated 19-10-1987, there is no such restriction on the upper age limit of the employees to get admitted into the fund. The age factor and the measures which are required to be taken to offset this disadvantage by way of collection of Rs.500/- came into contemplation only on 19-10-1987. Therefore, it follows that the husband of the writ petitioner having been validly enrolled as a member of the fund, the writ petitioner becomes entitled to seek payment of ex-gratia amount.

17. I also draw support for my view from the very central theme, around which this social security measure has been woven. This well thought of beneficial scheme has been put in place to create an additional component of social security in the minds of those who come forward to serve the organization. It is intended to create an umbrella of security over their heads and also over those who are dependent upon them. Such benevolent funds are intended to confer benefit as large in extent as is allowable. Any attempt to further this objective is welcome. No attempt should ever be permitted to secure the dampening or diminishing effect of the management of the fund. I therefore have no hesitation to uphold the plea of the writ petitioner and declare her to be entitled to be paid the ex-gratia amount in terms of the provisions contained in the fund. But however, the writ petitioner has erroneously pleaded that there should be direction to the respondents to pay a sum of Rs.55,000/- which is higher end amount. Unless the husband of the writ petitioner had contributed to the fund

during his life time at the higher end, the dependents of such an employee are not entitled to seek payment of ex-gratia at the higher end value. Therefore, to the extent of making a claim for Rs.55,000/- by the writ petitioner does not appear to be justifiable, but however, the respondents will work out the quantum of ex-gratia which is liable to be paid in all such cases where the quantum of monthly contribution, as was contributed by the husband of the writ petitioner entitles them to get. Since the husband of the writ petitioner has died, more than a decade back and the writ petitioner has just been lingering on the hope of securing little more financial aid, which will see them through the difficult times, I consider it appropriate to direct the respondents to settle the ex-gratia amount within a period of 15 days from the date of receipt of a copy of this order.

17. The writ petition is allowed as indicated above. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

16-07-2007

Note:

The Registry to dispatch this order in a week's time.

B/o.

Stp

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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